

STATE PROGRAM STATUS AND TRENDS

NATIONAL ENVIRONMENTAL PERFORMANCE TRACK STATE AND REGIONAL CONFERENCE Denver, Colorado – January 27th to 30th, 2003

Many states have established voluntary programs to promote and reward excellent environmental performance. The National Environmental Performance Track builds on the foundation set by a number of these state environmental performance-based programs with the aim of rewarding environmental performance at facilities that go beyond compliance with current federal regulations, while working cooperatively with state programs to support environmental excellence at both the state and federal levels.

State environmental performance-based programs are growing in number from year to year, and evolving as they learn to support facilities in developing beyond compliance activities. Many programs that started as pilot efforts several years ago are now fully established. Some programs are taking on not only industry-based facilities, but also non-traditional members such as households, government agencies, organizations, schools and municipalities. Some programs are also expanding the scope of their performance agenda to include concepts such as Total Quality Management, Sustainability, Health and Safety, and Industry- or Region-specific environmental concerns. The largest of these active programs have 90 or more members.¹ An additional seven programs have a range of 20 to 60 members.² Other programs are very new or lack resources to recruit members.

State performance-based programs, however, face significant challenges. Budget is often a limiting factor in program development and many programs depend heavily on the volunteer efforts of participating facilities and employees at State Agencies. The number of full time equivalent employees working on environmental performance-based programs ranges from one to five, with most programs having only one full time equivalent staff person. The long term stability of the programs is also often vulnerable to political and economic changes, which can lead to budget cuts, program re-design, or even cancellation.

There are currently 19 active state programs; 12 additional states have initiated some program development activity. These programs are described in three attachments: Attachment A presents a matrix summarizing key elements of the active state programs; Attachment B includes one-page summaries of each of these active programs; and Attachment C presents a second matrix that

¹Clean Texas Leader is the largest program, by membership, with 216 members, followed by Virginia with 125 members, and Louisiana with 92 members.

²Colorado, Michigan, New Mexico, North Carolina, South Carolina, Tennessee, and Vermont have between 20 and 60 members.

describes activities in states where there is not a fully functioning program, but where there is on-going or past activity related to performance-based programs. Active programs highlighted include:

- Colorado: Environmental Leadership Program
- Florida: Partnership for Ecosystem Protection Program
- Idaho: GEMStars
- Illinois: Regulatory Innovation Pilot Program
- Louisiana: Environmental Leadership Pollution Prevention Program
- Maine: Smart Tracks for Exceptional Performers and Upward Performers (STEP-UP)
- Massachusetts: Environmental Stewardship Program
- Michigan: Clean Corporate Citizen
- Missouri: Environmental Management Partnership
- New Mexico: Green Zia Environmental Excellence Program
- North Carolina: Environmental Stewardship Initiative
- Oregon: Green Permits Program
- South Carolina: Environmental Excellence Program
- Tennessee: Pollution Prevention Partnership
- Texas: Clean Texas Leader
- Utah: Clean Utah
- Vermont: Business Environmental Partnership
- Virginia: Environmental Excellence Program
- West Virginia: Sustainable Business Program
- Wisconsin: Environmental Results Program

Other states where there is some on-going or past program activity include:

- | | |
|---------------|-----------------|
| • Arizona | • Kentucky |
| • Alaska | • Minnesota |
| • California | • New Hampshire |
| • Connecticut | • New Jersey |
| • Georgia | • Rhode Island |
| • Indiana | • Washington |

The research conducted on the status of state performance-based programs revealed several patterns and trends in program design, program elements (requirements, EMS, and incentives), and in the nature of programs currently being developed. These patterns and trends are described in the sections below.

Program Design

The structure of active and developing programs reveals an evolving trend. Traditionally there have been two basic frameworks: the “case-by-case” framework and the “tiered” framework, where facilities are guided by requirements on how to become an environmental leader. These latter

programs are typically built on progressive tiers to match the development of increasingly effective environmental management systems with greater benefits. A number of programs are beginning to combine these two approaches into a hybrid framework in which facilities are guided by requirements in lower tiers and are allowed to develop their own innovative ideas on a case-by-case basis once they establish their credentials as environmental leaders and move into the upper tiers.

As part of the “tiered” structure, programs often include an Entry or “On-ramp” level. Seven of the currently active programs have an Entry level.³ At the highest tiers in these programs, facilities are encouraged to pursue more innovative activities and demonstrate stewardship. Six of the currently active programs have functioning or developing Stewardship levels.⁴ Many of these programs emphasize stewardship in the form of a facility’s demonstrated concern over the environmental impact of its product or service throughout the full life-cycle.

In addition, many states are working to align parallel programs within their jurisdictions, and to develop a closer relationship between their program and the National Environmental Performance Track program. For example, states are entering into agreements with EPA to help ease the burden on facilities wishing to participate in both the state and national programs and maximize the benefits provided by the programs. Approximately half of the states with currently active programs have developed, or are in the process of developing, a Memorandum of Agreement with the National Environmental Performance Track program or a Joint EPA/State Innovation Agreement.⁵

Program Elements

Requirements: Program requirements generally include an EMS; pollution prevention goals; commitment to continuous improvement; a history of good compliance; and community outreach and reporting to stakeholders. The flexibility with which these requirements are carried out varies a great deal across programs, ranging from itemized action steps to general guidelines to help facilities propose action plans. Many programs also include mentoring networks between facilities in higher and lower levels, training, and workshops. All programs require membership to be renewed, with the duration of membership ranging from one to five years.

EMS: Fourteen programs require some form of EMS. Some allow “on-ramp” level members to be in the process of developing an EMS, and others require a fully-developed EMS even at the entry level. Nine active programs currently require at least a full cycle of EMS implementation, to qualify

³Programs with active or developing Entry tiers are Colorado, Idaho, Maine, Massachusetts, New Mexico, Oregon, and Tennessee.

⁴Programs with active or developing Stewardship tiers are Colorado, Maine, Massachusetts, New Mexico, North Carolina, and South Carolina.

⁵Colorado, Massachusetts, Oregon, Tennessee, Texas, Virginia and Wisconsin have signed a Memorandum of Agreement with the EPA. Additionally, Missouri and Utah are considering, or are in the process, of developing such an agreement.

for the upper levels.⁶ Five currently active programs also require third-party audits.⁷ Though many other programs do not require the third-party auditing, most do require some type of independent audit and/or agency review for approval. Most programs encourage, if not require, EMS frameworks to be functionally equivalent to ISO 14001.

Incentives: The most commonly offered incentives in state performance-based programs include: recognition, such as awards and certificates; use of the program logo; streamlined permitting, multimedia permits, and/or permitting waivers and; reduced monitoring and reporting requirements.

Other frequently offered incentives include: reduced inspection frequency and cross media inspections; technical assistance and training, sometimes including prioritized compliance assistance; information exchange, networking, mentoring and workshops; single point of contact and; first invitations to participate in discussions with agency policy makers and in innovative programs.

Some additional incentives available in relatively few programs include: access to the state's low interest loans for innovative environmental projects; strategic environmental management tools to help realize the financial benefits of pollution prevention; and increased hazardous waste handling time.

Many programs are working to develop additional innovative incentives. Much of this focus has been on financial incentives. Financial incentive ideas being explored include: tax incentives; preferred vendor status for government purchasing; insurance premium discounts; and low interest loans for environmental innovation. Other emerging incentive ideas include University-based training courses for members and exclusive, online resources for members (e.g. online interactive meeting room).

Developing Programs

Several states are planning to develop a program, but several barriers still exist. One reason often cited for not developing a program was a lack of funding. One state commented that its time would be better spent supporting the National Environmental Performance Track program rather than developing its own performance-based program. Another state was concerned that its program would be a duplicate of Performance Track, and did not want to proceed with a program of its own unless it could build something unique that would create additional value.

Of the states with program activity, seven have supporting legislation authorizing the development of a performance-based program, three states sponsor a Governor's award program, two states currently have pilot programs underway, and two states have withdrawn programs and are now in

⁶Colorado, Maine, Massachusetts, New Mexico, North Carolina, Texas, Utah, West Virginia and Wisconsin require a full-cycle of EMS, at least in the upper levels.

⁷Maine, North Carolina, Oregon, Texas and Wisconsin require third-party audits of facility EMS's.

a transition phase as they begin to develop new programs. The types of activities in these states include formation of working groups to explore how to develop a program, conducting program feasibility studies and supporting environmental excellence with information sharing partnerships. It seems likely that several new programs will be launched in 2003 and that even more programs will be announced in future years.